

in connection with that loan, SBA is entitled to recover any money paid on the guarantee plus interest from the Lender responsible for those events.

(c) If the Lender's loan documentation indicates that one or more of the events in paragraph (a) of this section may have occurred, SBA may undertake such investigation as it deems necessary to determine whether to honor or deny the guarantee, and may withhold a decision on whether to honor the guarantee until the completion of such investigation.

(d) Any information provided to SBA prior to Lender's request for SBA to honor its guarantee shall not prejudice SBA's right to deny liability for a guarantee if one or more of the events listed in paragraph (a) of this section occur.

(e) Unless SBA provides written notice to the contrary, the Lender remains responsible for all loan servicing and liquidation actions until SBA honors its guarantee in full.

DEFERMENT, EXTENSION OF MATURITY AND LOAN MORATORIUM

§ 120.530 Deferment of payment.

SBA may agree to defer payments on a business loan for a stated period of time, and use such other methods as it considers necessary and appropriate to help in the successful operation of the Borrower. This policy applies to all business loan programs, including 504 loans.

§ 120.531 Extension of maturity.

SBA may agree to extend the maturity of a loan for up to 10 years beyond its original maturity if the extension will aid in the orderly repayment of the loan.

§ 120.532 What is a loan Moratorium?

SBA may assume a Borrower's obligation to repay principal and interest on a loan by agreeing to make the payments to the Lender on behalf of the Borrower under terms and conditions set by SBA. This relief is called a "Moratorium." Complete information concerning this program may be obtained from local SBA offices.

LIQUIDATION OF COLLATERAL

§ 120.540 What are SBA's policies concerning liquidation of collateral?

(a) *Liquidation policy.* SBA or the Lender may liquidate collateral securing a loan if the loan is in default or there is no reasonable prospect that the loan can be repaid within a reasonable period.

(b) *Sale and conversion of loans.* Without the consent of the Borrower, SBA may:

(1) Sell a direct loan;

(2) Convert a guaranteed or immediate participation loan to a direct loan; or

(3) Convert an immediate participation loan to a guaranteed loan or a loan owned solely by the Lender.

(c) *Disposal of collateral and assets acquired through foreclosure or conveyance.* SBA or the Lender may sell real and personal property (including contracts and claims) pledged to secure a loan that is in default in accordance with the provisions of the related security instrument (see § 120.550 for Homestead Protection for Farmers).

(1) *Competitive bids or negotiated sales.* Generally, SBA will offer loan collateral and acquired assets for public sale through competitive bids at auctions or sealed bid sales. The Lender may use negotiated sales if consistent with its usual practice for similar non-SBA assets.

(2) *Lease of acquired property.* Normally, neither SBA nor a Lender will rent or lease acquired property or grant options to purchase. SBA and the Lender will consider proposals for a lease if it appears a property cannot be sold advantageously and the lease may be terminated on reasonable notice upon receipt of a favorable purchase offer.

(d) *Recoveries and security interests shared.* SBA and the Lender will share pro rata (in accordance with their respective interests in a loan) all loan payments or recoveries, all reasonable expenses (including advances for the care, preservation, and maintenance of collateral securing the loan and the payment of senior lienholders), and any security interest or guarantee (excluding SBA's guarantee) which the Lender

§ 120.550

or SBA may hold or receive in connection with a loan.

(e) *Guarantors.* Guarantors of financial assistance have no rights of contribution against SBA on an SBA guaranteed or direct loan. SBA is not deemed to be a co-guarantor with any other guarantors.

HOMESTEAD PROTECTION FOR FARMERS

§ 120.550 What is homestead protection for farmers?

SBA may lease to a farmer-Borrower the farm residence occupied by the Borrower and a reasonable amount of adjoining property (no more than 10 acres and seven farm buildings), if they were acquired by SBA as a result of a defaulted farm loan made or guaranteed by SBA (see the Consolidated Farm and Rural Development Act, 7 U.S.C. 1921, for qualifying loan purposes).

§ 120.551 Who is eligible for homestead protection?

SBA must notify the Borrower in possession of the availability of these homestead protection rights within 30 days after SBA acquires the property. A farmer-Borrower must:

(a) Apply for the homestead occupancy to the SBA field office which serviced the loan within 90 days after SBA acquires the property;

(b) Provide evidence that the farm produces farm income reasonable for the area and economic conditions;

(c) Show that at least 60 percent of the Borrower and spouse's gross annual income came from farm or ranch operations in at least any two out of the last six calendar years;

(d) Have resided on the property during the previous six years; and

(e) Be personally liable for the debt.

§ 120.552 Lease.

If approved, the applicant must personally occupy the residence during the term of the lease and pay a reasonable rent to SBA. The lease will be for a period of at least 3 years, but no more than 5 years. A lease of less than 5 years may be renewed, but not beyond 5 years from the original lease date. During or at the end of the lease period, the lessee has a right of first re-

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fusal to reacquire the homestead property under terms and conditions no less favorable than those offered to any other purchaser.

§ 120.553 Appeal.

If the application is denied, the Borrower may appeal the decision to the AA/FA. Until the conclusion of any appeal, the Borrower may retain possession of the homestead property.

§ 120.554 Conflict of laws.

In the event of a conflict between the homestead provisions at §§ 120.550 through 120.553 of this part, and any state law relating to the right of a Borrower to designate for separate sale or to redeem part or all of the real property securing a loan foreclosed by the Lender, state law shall prevail.

Subpart F—Secondary Market

FISCAL AND TRANSFER AGENT (FTA)

§ 120.600 Definitions.

(a) *Certificate* is the document the FTA issues representing a beneficial fractional interest in a Pool (Pool Certificate), or an undivided interest in the entire guaranteed portion of an individual 7(a) guaranteed loan (Individual Certificate).

(b) *Current* means that no repayment from a Borrower to a Lender is over 29 days late measured from the due date of the payment on the records of the FTA's central registry (Pools) or the entity servicing the loan (individual guaranteed portion).

(c) *FTA* is the SBA's fiscal and transfer agent.

(d) *Note Rate* is the interest rate on the Borrower's note.

(e) *Net Rate* is the interest rate on an individual guaranteed portion of a loan in a Pool.

(f) *Pool* is an aggregation of SBA guaranteed portions of loans made by Lenders.

(g) *Pool Assembler* is a financial institution that:

(1) Organizes and packages a Pool by acquiring the SBA guaranteed portions of loans from Lenders;

(2) Resells fractional interests in the Pool to Registered Holders; and